

stones, having no significant commercial mineral value other than as construction material, as they may consider useful for conducting their operations, so long as this does not interfere with the rights of third parties or of the government. This can be sold commercially, though unlike timber there must be written government approval for this. There is no requirement that profits from such sales be shared between SD and the government.¹⁴

- **Water.** Before damming any body of water, SD must get approval from the government, though not from any communities which would be affected by it. SD is prohibited from damming water in such a way as to harm any farming activities already being conducted by the effective beginning date of the contract. There is no requirement that they refrain from harming farming activities, which come into existence *after* the beginning of the contract. Unlike the Golden Veroleum contract, there is no prohibition on depriving settlements (and therefore communities) of the water supply that they have customarily used.¹⁵

Public mobility issues

- The public are allowed to continue to freely use the roads across the Concession Area that they have always used, including farm roads, and including for commercial purposes. However, this use must not unreasonably interfere with SD's operations. SD may also deny or restrict public access over these roads (with prior notice to the government) if they think it threatens the security of their operations and employees. This can include the installation of security gates on public roads, subject to government approval. In the case of an emergency, SD can close these roads and trails without asking the government first, provided that they immediately notify the Ministry of Agriculture.¹⁶

Community Development Promises

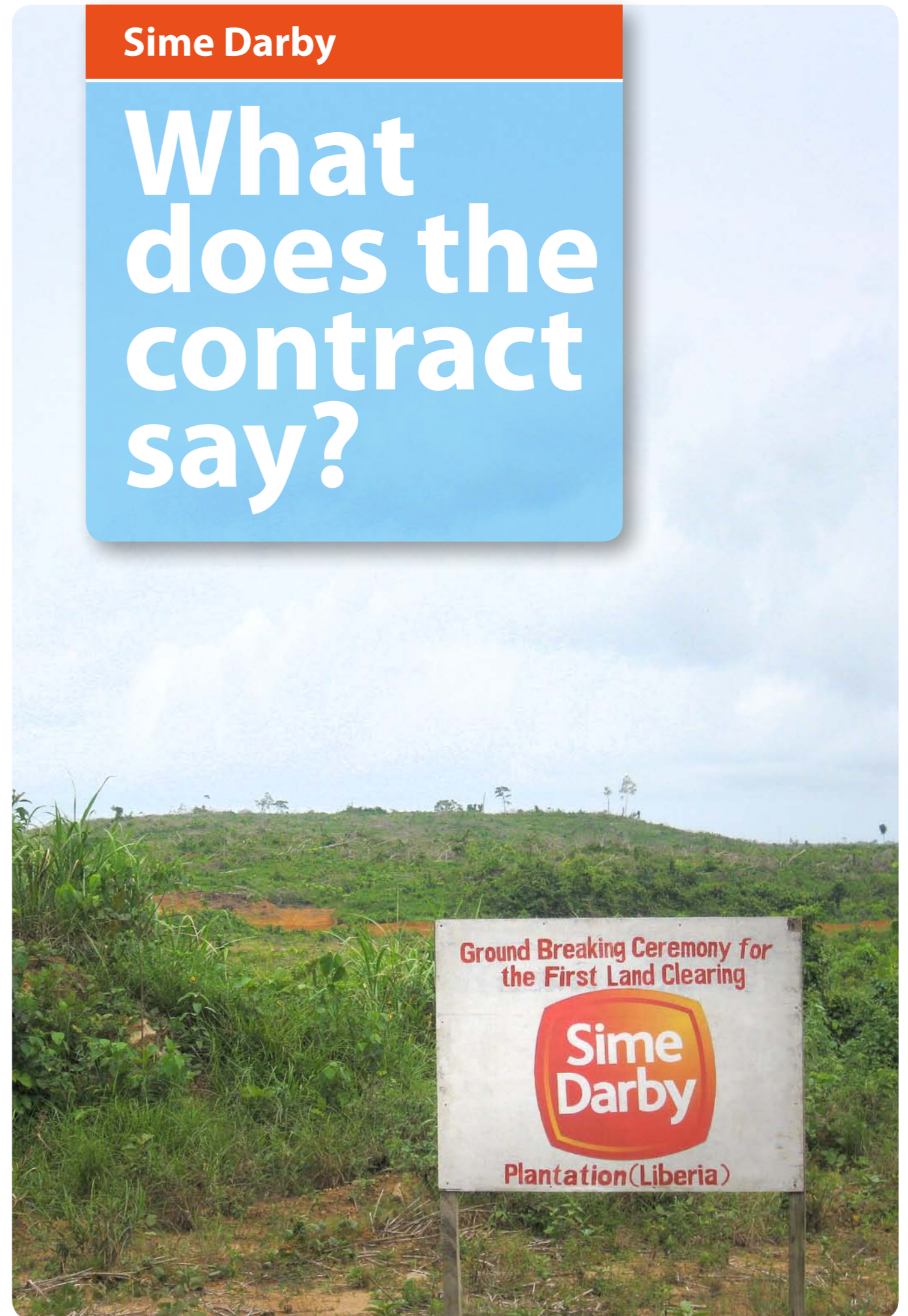
- **Outgrowers' Program.** This will give 44,000 of the Gross Concession Area to be farmed by Liberian oil palm farmer cooperatives selected by Sime Darby and the government. SD commits to purchase their produce, and to provide them with training and non-financial support in obtaining farming materials. Funding will be sought from the World Bank and other international development funds.

If funding is not obtained, the program will not go through and the land will revert to the government (see above).¹⁷

- **Community Development Contribution.**¹⁸ SD will contribute \$5 annually per ha of land within developed areas to a community development fund.
- A management team of not more than 10 members chosen by the surrounding community, the government, and SD will administer this fund. SD will get to choose half of the management team; there are no similarly ring-fenced positions for representatives from the community (or government) in the remaining half. Unlike the GV contract, there is no requirement that the budget be determined in consultation between the management team and the government.
- There is NO restriction limiting the disbursement of funds to projects directly benefiting the community, as opposed to the general work programs of administrative offices. There is also NO requirement that funds only be disbursed for the benefit of the communities in the affected counties.
- There are NO auditing or public transparency requirements regarding the activities of the fund.

Sime Darby

What does the contract say?

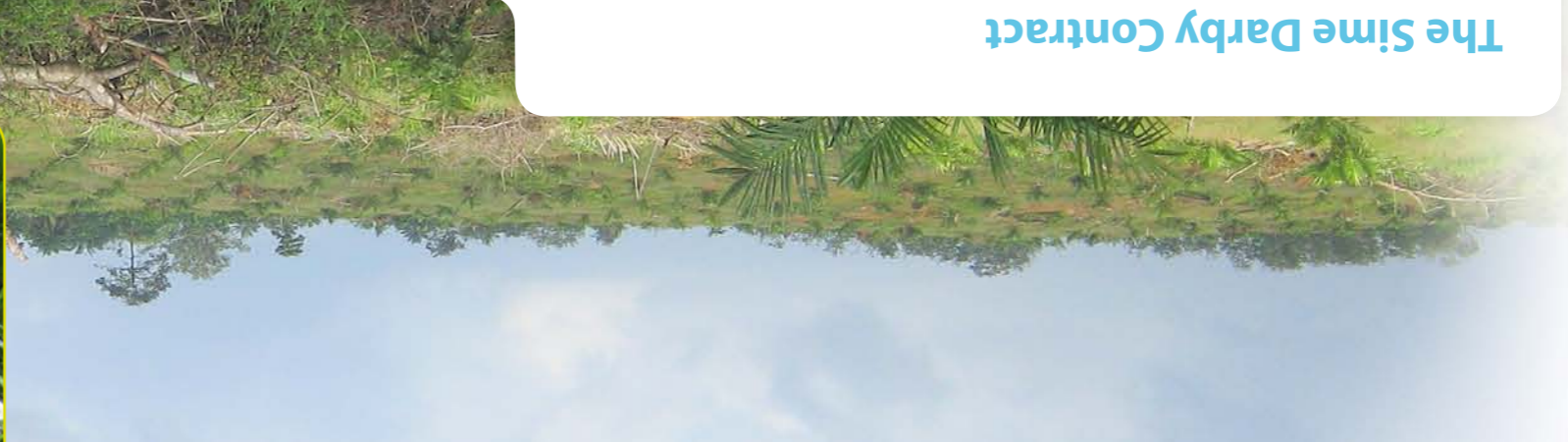


Footnotes

| | | | | | | | |
|---|----------------|----|--------------|----|----------------|----|----------------|
| 1 | Section 4.1(c) | 6 | Section 8.5 | 11 | Section 8.8 | 16 | Section 4.4(a) |
| 2 | Section 3.1 | 7 | Section 26.2 | 12 | Section 8.10 | 17 | Section 15.2 |
| 3 | Section 4.3 | 8 | Section 26.2 | 13 | Section 4.4(d) | 18 | Section 19.5 |
| 4 | Section 4.3 | 9 | Section 27 | 14 | Section 4.4(e) | | |
| 5 | Section 8.6 | 10 | Section 3.2 | 15 | Section 4.4(e) | | |

Disclaimer
The content of this brief is based on an analysis of the Concession Agreement between the Government of Liberia and Sime Darby, dated July 23, 2009. This brief highlights key areas of concern related to community rights, and has been developed and is printed by the Sustainable Development Institute (SDI) for educational purposes only. SDI bears no responsibility for use by any third party. For legal interpretations please refer to the original agreement.

Contact:
Sustainable Development Institute
P. O. Box 5678
Duarzon Village, Robertsville Highway
1000 Monrovia 10, Liberia
Email: managementteam@sdiiberia.org
Phone: +231 (0) 886 641 355



The Sime Darby Contract

Geographical Scope of Concession & Timescale of Expansion

- The size of the Sime Darby (SD) concession area is 31,187 hectares (the Gross Concession Area). 220,000 ha is for the Concession Area, and 44,000 is for the Outgrower's Program. There is no requirement at this (or indeed any) stage to inform residents of that area that their land has been selected for the concession.¹
- The term of the contract is 63 years from July 23, 2009.² Expansion of the operations area to its full size will take place over the next 18 years.

Resettlement & displacement

- SD will decide which communities it wants to resettle. SD will then make a request to the government and justify why it wants to resettle those communities. Once agreed SD and the government will form a resettlement committee.
- The resettlement committee will be comprised of 6 members; 2 of which must be representatives from the community. The government and SD will choose these community representatives (1 each) – none will be chosen by the community. This requirement does not specify which communities these representatives would be from; or whether communities in areas to which displaced people were moving would be included.³
- SD and the government will share the responsibility of resettlement, including managing the plans, carrying it out, and paying the expenses. In terms of
- Failure by SD to meet its Minimum Development Obligations, requiring 100% of the area to be planted by July 2020. This entitles the government to

Situations under which the government can reclaim concession land

- Displacement may also affect people living outside the boundaries of the Gross Concession Area initially chosen by SD and the government. This could occur either to replace land lost to government infrastructure or to replace land lost to third-party concessionaires.
- Compensation is not specifically mentioned, apart from the resettlement expenses mentioned above.
- Displacement may also affect people living outside the boundaries of the Gross Concession Area initially chosen by SD and the government. This could occur either to replace land lost to government infrastructure or to replace land lost to third-party concessionaires.

reclaim any undeveloped portion of the concession area.⁵

- Failure by SD to meet its end of cycle replanting obligations, giving the government the *option* to repossess that piece of land.⁶

- Termination of the contract by either SD or the government.⁷ This happens if SD chooses to terminate the contract, or if the government terminates it because SD has seriously failed to comply with the contract; is going bankrupt; or has ceased commercial production for more than 365 days.⁸ If this happens, the entirety of the concession area, including the oil palm trees, reverts to the government.⁹

- The contract expires if it isn't renewed, this can happen once the term of the contract ends, after 63 years.¹⁰

There is no provision for the government to reclaim land if SD fails to find funding for the Outgrower's Program, as there is in the Golden Veroleum contract. The land presumably will remain part of SD's Gross Concession Area.

Non-palm-oil/rubber farming is allowed on Sime Darby's land

- By SD & its employees: SD may consider growing rice or other food products on its concession land, but only if it is in areas that are not suitable for palm oil produc-

tion or carried out in a way that will not negatively affect production. The land being used for this type of farming also cannot exceed 5% of the concession area that is being used for production that year. These products CAN be sold commercially.¹¹

Sime Darby's rights over natural resources on its concession land

- By independent farmers:¹² SD must allow certain independent farmers in areas that are not suitable for production. This program is identical to Golden Veroleum's independent farmers program (see above).
- Carbon credits. The contract does not mention giving SD the Carbon Rights connected to its concession area.
- Timber. SD can plant and cut timber and other vegetation on its concession area to the extent that it deems necessary for constructing infrastructure and performing its operations. This is completely at SD's discretion, with no government oversight or requirement of reasonableness on SD's part. Excess timber CANNOT be sold commercially, EXCEPT for rubber wood which SD CAN sell commercially. Unlike the Golden Veroleum contract, there is no requirement that profits from such sales be shared between SD and the government.¹³
- Earth. SD can take free of charge as much earth and

